

Polish Court applies *Skandia* ruling to transactions between Polish branches and HQs

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On 24 August 2018, the Polish Administrative Court issued the first judgment (case no. III SA/WA 3486/17) confirming the **possibility to recover input value added tax (VAT) by Polish branches, in cases where such branches provide services for the VAT group's headquarters (HQs)**.

The Polish court ruling follows the Court of Justice of the European Union (CJEU) judgment in the *Skandia* case, which held that services **provided by the main establishment** of a company (located in a third country) **to a branch** of a company (located in a Member State) are taxable transactions **if the branch is a member of a VAT group** (a group of persons that can be considered as a single taxable person within value added tax). Hence, the CJEU confirmed that the main establishment of a company and its branch may be treated as separate VAT taxpayers.

Taking into account the Polish Administrative Court's ruling, the following implications should be considered:

- ▶ Activities performed by a Polish branch for the benefit of its HQ - member of a VAT group - **are transactions subject to VAT taxation**.
- ▶ There should be a **right - under general rules - to deduct input VAT related to purchases made by the Polish branch** in connection with those activities performed for the benefit of HQ.
- ▶ Activities performed by an HQ - member of a VAT group - for the benefit of its Polish branch may trigger an obligation to account for Polish VAT (under the reverse charge mechanism).

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